

Application No. 09/921,107  
Amendment dated September 16, 2004  
Reply to Office Action of March 16, 2004

### REMARKS

Applicants amended claims 1, 7, 15, 19, 21, and 28 to further define Applicants' claimed invention. No new matter has been added.

In the Office Action, the Examiner rejected claims 1-18 under 35 U.S.C. § 112, second paragraph, as being indefinite. Independent claims 1, 7, and 15 have been amended to recite that the processor is a "computer processor." In response to the Examiner's request for clarification, claims 1-18 are directed to an apparatus that includes a computer processor. It is submitted that the rejection of claims 1-18 under 35 U.S.C. § 112, second paragraph, as being indefinite has been overcome.

The Examiner rejected claims 1-31 under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Independent claims 1, 7, and 15, as now amended, include a computer processor and thus claim a technological basis in the body of the claims. Independent claims 19 and 25, as now amended, are drawn to a computer-implemented method. It is submitted that the rejection of claims 1-31 under 35 U.S.C. § 101 as being non-statutory has been overcome.

The Examiner rejected claims 1, 2, 5, 6, 28, 30, 31 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,178,407 to Lotvin et al. in view of U.S. Patent No. 6,535,856 to Tal; rejected claims 3, 4, and 29 under 35 U.S.C. § 103(a) as being unpatentable over Lotvin et al. in view of Tal as applied to claim 1 above, and further in view of U.S. Patent No. 5,826,243 to Musmanno et al.; rejected claims 7-14, 19-27 under 35 U.S.C. § 103(a) as being unpatentable over Lotvin et al. in view of Musmanno et al.; rejected claims 10 and 26 under 35 U.S.C. § 103(a) as being unpatentable over Lotvin et al. in view of Musmanno et al. as applied to claim 7 and 19 above and further in view of U.S. Patent No. 5,973,683 to Cragun et al.; rejected claims 15, 17, and 18 under 35 U.S.C. § 103(a) as being unpatentable over Lotvin et al. in view of U.S. Patent No. 5,848,396 to Gerace; and rejected claim 16 under 35 U.S.C. § 103(a) as being unpatentable over Lotvin et al. in view of Gerace as applied to claims 15, 17, and 18 above and further in view of Musmanno et al.

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(1) Rejection of claims 1, 2, 5, 6, 28, 30, 31 under 35 U.S.C. § 103(a) as being unpatentable over Lotvin et al. in view of Tal

Independent claim 1 recites that the computer processor is "programmed to post a debit to the second account upon the first occurrence" of either "a selected total of said credits posted to the first account" or "a selected interval of time elapsing since a posting was made to the second account." (Emphasis added). Independent claim 28 recites the steps of "posting a debit to the second account upon the first occurrence" of either "a selected total of the credits posted to the first account" or "a selected interval of time elapsing since a posting was made to the second account." (Emphasis added). No such system or method is taught or suggested by Lotvin et al. and Tal either alone or when properly combined.

Lotvin et al. discloses a system wherein users earn credits upon completion of certain tasks. The credits are stored in an account and can be redeemed towards the purchase of goods and services. (Lotvin et al., col. 1, lines 53-63). The users are permitted to periodically make purchases up to a certain limit. (Lotvin et al., col. 2, lines 17-23). Specifically, Lotvin et al. teaches that "the system retrieves the child's accumulated point total. Control then proceeds to block 602, where the system retrieves the monetary amount available to the child at that time. For example, a parent may specify that his child may spend up to \$15 each month, and if no purchases are made over a two month period, then \$30 is available, but at no time is more than \$30 ever to be available to the child." (Lotvin et al., col. 13, lines 39-44).

Lotvin et al. further teaches that the "credit card may be credited regularly on a periodic basis (e.g. monthly). In this case, the purchase total would be deducted from the total accumulated monetary amount, which is stored in the system's database. Finally, at block 607 the child's accumulated point total is reduced by an amount consistent with the child's purchase." (Lotvin et al., col. 14, lines 1-8).

The selected time interval in Lotvin et al. is not the "time elapsing since a posting was made to the second account" as recited in Applicants' claimed invention. Lotvin

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et al. teaches only a regular or periodic time period for posting a debit to the second account. (Lotvin et al., col. 14, lines 1-8).

There is no teaching or suggestion in Lotvin et al. for posting a debit based on the first occurrence of the "total of credits posted" to a first account or "selective interval of time passing since a posting was made" to a second account as recited in Applicants' claimed invention.

Tal discloses methods and software for regulating and enforcing open account payments and updating of credit ratings. (Tal, col. 1, lines 10-15). The method includes maintaining a database of buyers and sellers relating to defaulting on payment terms and providing notice of buyers who fail to cure default. (Tal, col. 2, lines 33-43). There is no teaching or suggestion in Tal for posting a debit based on the first occurrence of the "total of credits posted" to a first account or "selective interval of time passing since a posting was made" to a second account as recited in Applicants' claimed invention.

Applicants respectfully traverse the Examiner's contention that it "would have been obvious for one of ordinary skill in the art to included selected interval of time elapsing since a posting was made to the second account, or that the interval of time commences from when a debit is posted to the second account because of what is taught by Tai." (Office Action, page 4, paragraph 4). Further, Applicants respectfully submit that the Examiner's contention that "obligations within agreed to time periods for buyers responsibility" as taught by Tai is not the same as posting a debit based on the occurrence of a "selective interval of time passing since a posting was made" to second account as recited in Applicants' claimed invention.

Applicants respectfully submit that the Examiner's proposed combination of Lotvin et al. in view of Tai does not teach or suggest the claimed invention. As set forth in the MPEP, "the prior art reference (or references when combined) must teach or suggest all the claim limitations." (MPEP § 706.02(j), "Contents of a 35 U.S.C. 103 Rejection," page 700-35, col. 1 (May 2004)). Thus, the Examiner has not established *prima facie* obviousness of the claimed invention. The MPEP states "[t]o establish

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prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. [citation omitted], 'All words in a claim must be considered in judging the patentability of that claim against the prior art.' [citation omitted]." (MPEP § 2143.03, "All Claim Limitations Must Be Taught or Suggested," page 2100-108, col. 2 (May 2004)).

Applicants submit that the rejection of independent claims 1 and 28 under 35 U.S.C. § 103(a) over Lotvin et al. in view of Tal has been overcome. Claims 2, 5, 6, 30, and 31, dependent from one of independent claims 1 and 28, or claims dependent therefrom, respectively, are allowable at least due to their dependency from an allowable independent claim.

(2) Rejection of claims 7-14, 19-27 under 35 U.S.C. § 103(a) as being unpatentable over Lotvin et al. in view of Musmanno et al.

Independent claim 7, as now amended, recites "a computer processor programmed to selectively restrict access to the digital media content by said main accounts and said sub-accounts, at least one of said main accounts selectively restricting access to the digital media content by at least one of said sub-accounts linked to said at least one of said main accounts." No such system is taught or suggested by Lotvin et al.

Independent claim 19, as now amended, includes the steps of "imposing restrictions to access the digital media content to at least one of the primary account and the sub-account, the primary accounts selectively restricting access to the digital media content by the sub-account linked to the primary account." No such method is taught or suggested by Lotvin et al.

Musmanno discloses a financial management system for directing and managing a plurality of brokerage and cash management accounts. (Musmanno, col. 2, lines 25-27). The system includes "at least one master account having one or more functional capabilities such as check writing, credit/debit card management, access to brokerage services, etc. The master accounts are linked to one or more nested

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subaccounts which are separately directed to a subset of features falling within the master account." (Musmanno, col. 2, lines 25-27). There is no teaching or suggestion in Musmanno for a system and method for controlling access to digital media content by a viewer as recited in applicants' claimed invention.

Moreover, applicants submit that the financial management system of Musmanno is non-analogous art to the system and method to access digital media content of the claimed invention. According to the MPEP, "[i]n order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned." (MPEP § 2141.01(a), "To Rely On A Reference under 35 U.S.C. 103, It Must Be Analogous Prior Art," page 2100-99, col. 1 (May 2004), quoting *In re Oetiker*, 977 F.2d 1443 (Fed. Cir. 1992) ("[t]he court held the reference was not within the field of applicant's endeavor, and was not reasonably pertinent to the particular problem with which the inventor was concerned because it had not been shown that a person of ordinary skill, seeking to solve a problem of fastening a hose clamp, would reasonably be expected or motivated to look, to fasteners for garments;" see MPEP 2141.01(a), "Analogy In The Mechanical Arts," page 2100-100, col. 1 (May 2004)).

Applicants submit that the rejection of independent claims 7 and 19 under 35 U.S.C. § 103(a) over Lotvin et al. in view of Musmanno et al. have been overcome. Claims 8-14 and 20-27, dependent from one of independent claims 7 and 19, or claims dependent therefrom, respectively, are allowable at least due to their dependency from an allowable independent claim.

(3) Rejection of claims 15, 17, and 18 under 35 U.S.C. § 103(a) as being unpatentable over Lotvin et al. in view of Gerace

Independent claim 15 recites a system for managing accounts and organizing account holders into groups for targeted marketing utilizing "a computer processor

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programmed to place each of the account holders into a group of account holders sharing at least one characteristic, said characteristic used to determine the content to deliver to the group of account holders." Lotvin et al. teaches that based "on the specified child's name, parental preference data for the specified child is retrieved from the database ...the preferences include: type and level of difficulty of educational material, preferences regarding advertising, and preferences regarding goods and services that can be purchased by the child." (Lotvin et al., col. 14, lines 41-48). There is no teaching or suggestion in Lotvin et al. to "place the account holders into a group sharing at least one characteristic" wherein the characteristic is "used to determine the content to deliver to the group of account holders" as recited in Applicants' claimed invention.

Gerace teaches the customized presentation of information to a user based on the psychographic profile of the user. (Gerace, col. 2, lines 16-24). In Gerace, the "advertisements are displayed to users in accordance with the psychographic profile of the user." (Gerace, col. 2, lines 27-29). Gerace does not teach placing account holders into groups based on a characteristic and then delivering content to a group of account holders as recited in applicants' claimed invention.

Applicants submit that the rejection of independent claim 15 under 35 U.S.C. § 103(a) over Lotvin et al. in view of Gerace has been overcome. Claims 17 and 18, dependent from claim 15 or claims dependent therefrom, are allowable at least due to their dependency from an allowable independent claim.

The Examiner also rejected claims 3, 4, and 29 under 35 U.S.C. § 103(a) as being unpatentable over Lotvin et al. and Tal, further in view of Musmanno et al.; rejected claims 10 and 26 under 35 U.S.C. § 103(a) as being unpatentable over Lotvin et al. and Musmanno et al., further in view of Cragun et al.; and rejected claim 16 under 35 U.S.C. § 103(a) as being unpatentable over Lotvin et al. and Gerace, further in view of Musmanno et al. Applicant submits that the rejections over claims 3, 4, 10, 16, 26, and 29 are rendered moot at least because they depend from an allowable independent claim, or claims dependent therefrom.

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In view of the foregoing remarks, it is respectfully submitted that the claims, as amended, are patentable. Therefore, it is requested that the Examiner reconsider the outstanding rejections in view of the preceding comments. Issuance of a timely Notice of Allowance of the claims is earnestly solicited.

To the extent any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this reply, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees required for an extension of time under 37 C.F.R. § 1.133, please charge such fees to our Deposit Account No. 50-1068.

Respectfully submitted,

MARTIN & FERRARO, LLP

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